

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
CITY COUNCIL CHAMBERS
January 27, 2009**

1. Present

Commissioners:

Sherwood Bishop, Chair
Ryan Thomason, Vice-Chair
Bill De Soto
Bill Taylor
Curtis Seebeck
Allen Shy (absent)
Cecil Pounds
Jim Stark
Randy Bryan

City Staff:

Chuck Swallow, Director of Development Services
Chance Sparks, Development Planning Manager
Cecil Pennington, Long Range Planning Manager
Bill Couch, Development Projects Coordinator
Francis Serna, Recording Secretary

Others Present: Graham Moore, Gary Gonzales, Jeffrey V. Jewett, Ed Theriot, Charles L. Blue, Sr., Larry Peel, Janelle Braun and others.

2. Call to Order and Announce a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday, January 27, 2009 in the Council Chambers of the City of San Marcos City Hall, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Bishop welcomed the audience and the television viewers. He announced that the Carma Paso Robles item on the agenda will not be discussed and will be rescheduled to a future Planning Commission meeting at the request of the applicant. He informed the audience that the Carma Paso Robles case would be discussed at the Transportation Advisory Board Meeting at 6:00 p.m. in the City Hall Conference Room for those who are interested in attending.

Cecil Pennington announced that he has tendered his resignation from the City of San Marcos. He stated that he has accepted a position with the office of The State of Texas – Office of Rural Community Affairs. Mr. Pennington's last day is Friday, February 6, 2009. He added that he has enjoyed his time with the City and working with everyone.

4. Executive Session

There were no discussions.

5. Citizen Comment Period

No one signed up to speak.

6. Hold a public hearing and consider a request by Carma Paso Robles, LLC for the following:

a. PDA-08-03: A petition for a development agreement has been filed for entire site that addresses annexation, utility services, transportation, development standards, parkland and other project amenities accompanied with duties and responsibilities of the Developer, City, and Property Owners Association over the term of the Development Agreement.

b. LUA-08-12: Future Land Use Map Amendment from High Density Residential, Commercial, Industrial and Open Space to General Commercial (GC). Subject area includes: 60.294 acres east of Hunter Rd and south of Center Point Road.

c. PDD-08-03: Zoning Change from Very Low Density Residential – 1,278.29 acres to Mixed Use (MU) (856.8 acres) - 2.7 dwelling units per acre gross; General Commercial (GC) - 60.294 acres; Opens Space 339.3 acres (open space parks, landscape buffers and easements); 25.8 acres Community Center / Club House; and 68.2 acres of R.O.W.

d. ZC-08-20: Zoning Change from Unzoned (UZ) with a future land use designation of very low density residential to 1290.10 acres to a base Zoning within the PDD of Mixed Use (MU) development that will allow commercial, retail, residential, office and other uses that may differ from uses typically allowed in the City's Mixed Use zoning districts.

e. ZC-08-21: Zoning Change from Unzoned (UZ) with future land use designation of high density residential, commercial, industrial and open space to a base Zoning category within the PDD zoning classification of General Commercial (GC) 60.294 acres that will allow commercial, retail, residential, office and other uses that may differ from uses typically allowed in the City's General Commercial (GC) zoning districts.
7. CUP-08-41. Hold a public hearing and consider a request by Brendan Hollier, on behalf of Chuy's, for a new Conditional Use Permit to allow the on-premise consumption of liquor, beer, and wine at an establishment located at 2810 S. IH. 35.

Bill Couch stated that the request is a continuation from the December 9, 2008 Planning Commission Meeting. He added that the applicants are in the process of creating a Development Agreement and are before the Transportation Advisory Board meeting tonight to discuss amendments. Mr. Couch advised the Commission that a public hearing for citizen comments will be heard and no action will be taken at tonight's meeting. He stated that the applicant has requested that the item be postponed to February 24, 2008 for consideration.

Chair Bishop opened the public hearing. Ed Theriot, with ETR Development Consulting, representing Carma Paso Robles, LLC, stated that as indicated by staff the item was initially brought before the Commission on Dec. 9, 2008 Planning Commission meeting. He advised the Commission that they are currently meeting with the Transportation Advisory Board meeting tonight. He added that the City Council is also considering aspects of the Development Agreement at their February 3, 2009 City Council meeting. Mr. Theriot added that they are currently working with staff regarding comments on the Planned Development District and zoning changes. Mr. Theriot stated that they will provide staff with additional information necessary to proceed with the request on the February 24, 2009 Planning Commission meeting. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck, the Commission voted eight (8) for and none (0) opposed, to reopen the public hearing and continue the request to the February 24, 2009 Planning Commission meeting. The motion carried unanimously. Commissioner Shy was absent.

7. Hold a public hearing and discuss a request by Larry Peel and Co, Inc, for a land use amendment and zoning change for 22.5 acres of land located north of Wonder World Dr. between Hunter Rd. and Dutton Dr.

a. LUA-08-15: Future Land Use Map Amendment from General Commercial, Community Commercial and Open Space to High Density Residential. Subject area includes (Parcel 1 - Lot 4 Hunters Crossing) 12.75 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County and (Parcel 2 - Carson Tract) 9.76 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County Texas.

b. ZC-09-02: Zoning change from General Commercial (GC) to Base Zoning of MF-18. The underlying base zoning for the PDD is planned to be MF-18. Subject area includes (Parcel 1 - Lot 4 Hunters Crossing) 12.75 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County and (Parcel 2 - Carson Tract) 9.76 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County Texas.

c. PDD-08-07: Zoning change from General Commercial (GC) to Planned Development District. The underlying base zoning for the PDD is planned to be MF-18. Subject area includes (Parcel 1 - Lot 4 Hunters Crossing) 12.75 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County and (Parcel 2 - Carson Tract) 9.76 acres out of J.M Veramendi Survey No. 1 Abstract No. 17 Hays County Texas.

Bill Couch summarized the staff report and gave an overview of the project to the Commission. He pointed out that comments from City Staff were included in their agenda packets. Mr. Couch introduced Mr. Larry Peel, the applicant and Assistant, Ms. Janelle Braun whom will provide a presentation of the proposed project.

Mr. Larry Peel, owner of Larry Peel & Company, LLC gave a brief power point presentation of the proposed project which included project description, amenities, interior unit features, traffic impact, parking, fences, construction and building standards. Mr. Peel also gave a brief background of the company.

Chair Bishop opened the public hearing. Gary Gonzales, 734 W. Hopkins, member of the neighborhood and President of the Neighborhood Association. He stated that the project is beautiful but felt that the project would not benefit the city. Mr. Gonzales commented that apartments on not necessary on Hopkins or would be advantageous to San Marcos. He felt that the apartments would damage the integrity of the Historic District. He asked the Commission to take into consideration the Hunter and Hopkins Street overcrowding and high traffic impact.

Amy Kirwin, Dunbar Neighborhood Representative stated she is currently not in favor of the request because of flooding issues. She pointed out that the neighborhood floods easily and that the proposed development would be built on Purgatory Creek. Ms. Kirwin mentioned that Gravel Street also floods easy and that people are still allowed to construct homes. She pointed out that she is also concerned with traffic on Hopkins Street. She encouraged bike and pedestrian trails in the development. Ms. Kirwin asked the Commission not to look at one property but the whole area.

Charles Blue, 1001 W. San Antonio Street, stated he has lived in San Marcos for 25 years. He informed the Commission that Mr. Peel has met with the citizens of the Historic District and has a very impressive project. Mr. Blue commented that it is difficult to speak against the project, although sharing conversations with people at meeting there are a couple of things to address. He stated that the property is currently Commercial property and once it has opened up to multi-family, it will continue along the street. Mr. Blue commented that they do not need multi-family zoning in the area. He stated that Mr. Peel addressed that the project is not student housing, but that he has personal knowledge of other high end developments to discourage students, but are not successful. Mr. Blue mentioned that he spoke to a manager of the apartment property and was advised that at least 50 percent of students live in the apartments. He added that he has concerns with traffic on Hunter and Hopkins which are currently two lanes. He felt that Hopkins Street cannot handle apartment traffic. There were no additional citizen comments and the public hearing was closed.

Commissioner DeSoto inquired on the benefit of a PDD. He suggested that LEED be used for the project.

Bill Couch explained that parking for the Club House and amenities are is not calculated in a PDD and the applicant has the ability to request use of garages and have them count towards the parking requirement.

Commissioner Taylor inquired how much of the Wonder World Drive extension is funded.

Chance Sparks stated that 3.1 miles of the Wonder World Drive extension is fully funded. Commissioner Pounds inquired on when the widening of Hopkins Street would occur.

Chance Sparks explained that a definite date has not been set. Although, ideally in the next couple of years, possibly 2011.

Commissioner Thomason asked for more information regarding traffic issues.

Chance Sparks explained that a Traffic Impact Analysis has been performed based on if an Albertson's would be constructed. According to the TIA, 1000 trips would be added per day. Mr. Sparks offered to provide the information to the Commission.

Commissioner Pounds pointed out that there is a difference with patterns with apartments to commercial property south of town.

Commissioner Taylor requested that the figures be provided to the Commission. He pointed out that Ms. Kirwin had a valid point regarding flooding and asked if an impact study has been performed.

Chance Sparks advised that the project would submit a Watershed Protection Plan to address drainage and site impacts.

Bill Couch added that part of the property has been filled by permit and that the flood plain has been modified. In addition all units will be developed one foot above elevation, the trails will be located in the flood plain and no development will be in the floodway. Mr. Couch added that at this time they could not give definite answers regarding flow of the water because the project engineering is not complete at this stage to address watershed protection plan. Flows have just been provided to the Engineer.

Commissioner Taylor commented that he is not against students living in apartments as long as they comply with the Occupancy Restriction in the City Ordinance.

Chair Bishop stated that due to flooding issues he created a map indicating the floodway and floodplain. He mentioned that the City did a study that updated the floodway and floodplain and requested that the report be provided to the Commission. Mr. Bishop also suggested that the land be moved to raise the apartments because some apartments would be located in the 100 year floodplain. He expressed concerns of flooding and stated that water would run onto other land owner's property. Mr. Bishop inquired on dedicated parkland. He suggested instead of building a fence around the detention pond, they could have native wetlands to make it more attractive

Bill Couch advised the Commission that the study has not been accepted but is currently in use.

Larry Peel stated that a wetland surrounding the detention pond might be interesting and that he wanted to leave as a natural state as possible. He explained that he has met with the Parks and Recreation Board. Mr. Peel mentioned that a section of the land has been filled and has had it surveyed to make sure the property is out of the floodway. He pointed out that FEMA has to give approval before they can continue the project.

Bill Couch commented that staff and the applicant are working with Parks and Recreation Advisory Board to meet parkland dedication. The Parks and Recreation Department is comfortable with the proposed project. The baseline flow calculations have been provided to the project engineer.

Commissioner Taylor pointed out that the major concerns consist of increasing flood potential and traffic impact.

Commissioner Pounds added that the project is a great economic impact to the community.

Commissioner Bryan stated once the concerns are addressed, the project would be an asset to the community.

Commissioner Stark mentioned that traffic will always be an issue and felt that once additional information is provided a recommendation could be provided.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Thomason, the Commission voted eight (8) for and zero (0) opposed, to continue the public hearing and consider the request at the February 10, 2009 Planning Commission Meeting. The motion carried unanimously. Commissioner Shy was absent.

8. Hold a public hearing and consider the Commission's role as Capital Improvements Advisory Committee, the Land Use Assumptions and Engineering Report pertaining to the imposition of Water and Wastewater Impact Fees.

Graham Moore, of LAN, Inc., gave the same presentation to the Planning Commission that he gave on January 27, 2009 to the Planning Commission meeting. Mr. Moore included updated information regarding the City of Kyle, Seguin and New Braunfels as requested.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

Commissioner Taylor asked Mr. Moore to refresh the Commission on their role.

Graham Moore advised the Commission that the Planning & Zoning Commissioner is an advisory committee. The City Council will hear their recommendation at the February 17, 2009 City Council Meeting followed by a Public Hearing.

Commissioner Thomason stated that the impact fees have gone up 500 percent. He asked that the impact fees be reduced to match the City of New Braunfels' impact fees.

The Commission briefly discussed the presentation noting that the City of San Marcos impact fees are too high and that something should be done to reduce the fees. The Commission asked if it is possible to have a sliding scale of impact fees.

Graham Moore explained that impact fees can be assigned to preferred area or corridors but that fees are based on meter size.

MOTION: Upon a motion made by Commissioner Thomason and a second by Commissioner Seebeck, the Commission voted six (6) for zero (0) opposed, and two (2) abstained to approve the Land Use Assumptions and Engineering Report pertaining to the imposition of excessive Water and Wastewater Impact Fees. The motion carried. Commissioners Bryan and Stark abstained. Commissioner Shy was absent.

9. Planning Director's Report

- a. Correction of scrivener's error – citywide rezoning for 1003, 1013, 1015, 1019, and 1021 Chestnut.

MOTION: Upon a motion made by Commissioner Thomason and a second by Commissioner Seebeck, the Commission voted eight (8) for and zero (0) opposed, to correct the scrivener's error. The motion carried unanimously. Commissioner Shy was absent.

Commissioners' Report

Commissioner Seebeck requested that the Planning Director's Report agenda item be corrected to show Chance Spark's title as "Development Planning Manager's Report" not Planning Director.

Chair Bishop requested that staff advise an applicant giving a presentation of the time limitations and announce the time limit at the beginning of the meeting.

Chance Sparks stated that he would provide the power point presentation in their agenda packets for future meetings.

10. Consider approval of the minutes from the Regular Meeting of January 13, 2008.

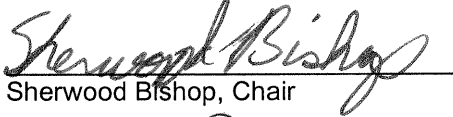
MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason, the Commission voted eight (8) for, none (0) opposed, to approve the Regular Meeting Minutes of January 27, 2009 with corrections. The motion carried unanimously. Commissioner Shy was absent.

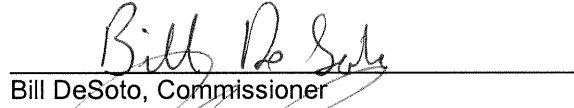
11. Questions and answers from the Press and Public.

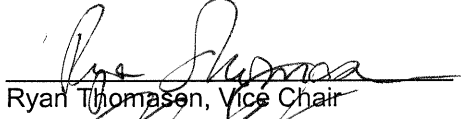
There were no questions from the press and public.

12. Adjournment

MOTION: Upon a motion made by Commissioner Thomason and second by Commissioner Taylor, the Commission voted nine (9) for and none (0) opposed, to adjourn the regular meeting of the Planning and Zoning Commission at 6:59 p.m. on Tuesday, January 27, 2009. The motion carried unanimously.


Sherwood Bishop, Chair

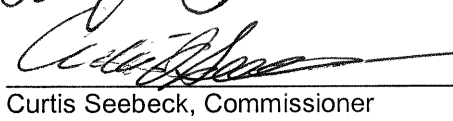

Bill DeSoto, Commissioner


Ryan Thomason, Vice Chair


Randy Bryan, Commissioner


Cecil Pounds, Commissioner


Jim Stark, Commissioner


Curtis Seebeck, Commissioner


Bill Taylor, Commissioner

ATTEST:


Francis Serna, Recording Secretary

